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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,320	10/19/2001	John Stewart Jakes	9052-93	3394

20792 7590 03/16/2005

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EXAMINER


KEENAN, JAMES W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/001,320	Applicant(s) JAKES, JOHN STEWART	
	Examiner James Keenan	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-17 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-17 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |



1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in United Kingdom on 2/2/01. It is noted, however, that applicant has not filed a certified copy of the UK application as required by 35 U.S.C. 119(b).
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 5,730,577).

Jones shows passenger carrying means 24, linear guide means 38 with a first end 37 and second end 42, transporting means 20, attachment means 39 enabling the first end of the guide means to be attached to a vehicle, the second end of the guide means resting on the ground, wherein the passenger carrying means is movable along the guide means by the transporting means such that a passenger seated on the carrying means may be lifted by the transporting means towards the attachment means in both vertical and horizontal directions.

4. Claims 22 and 24 are rejected under 35 U.S.C. 102(a) and/or (e) as being clearly anticipated by Lee et al (US 6,149,372).

5. Claims 22 and 23 are rejected under 35 U.S.C. 102(a) and/or (e) as being clearly anticipated by Egan et al (US 6,176,672).

6. Claims 22 and 23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Clary (US 6,634,849).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 5-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Clary, Egan et al, Lee et al, or Jones in view of Greaves (US 5,489,181) and Bartelt (US 5,230,405), both previously of record).

The primary references all show devices for transporting a small vehicle such as a platform, wheelchair, or motorcycle, on which a passenger may sit or stand, from a ground level into a larger vehicle. They do not show the passenger carrying means to comprise a chair with a support surface and armrests disposed on opposite sides of and above the support surface.

Greaves shows a similar device for allowing a passenger to be moved from a ground surface into a vehicle, including a chair with a support surface and a single armrest disposed to one side of and above the support surface.

Bartelt shows a chair for enabling a passenger to be moved from one level to another, the chair having armrests on opposite sides of and above a support surface.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Clary, Egan et al, Lee et al, or Jones by substituting a chair with two armrests in place of the passenger carrying means, as jointly suggested by Greaves and Bartelt, as this would simply be the use of the apparatus for a similar and well known purpose of moving a disabled passenger into a vehicle when that passenger is not in a wheelchair or other mobility device and/or can not or does not want to take it in the vehicle.

9. Claims 1, 5-17, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greaves in view of Bartelt and any of Clary, Egan et al, Lee et al, or Jones.

Greaves shows the device to be mounted on wheels for portability rather than permanently attached to the vehicle; thus the second end of the guide means, although adjacent the ground, does not rest on the ground. Greaves also shows only one armrest.

Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Greaves by removing the wheels and attaching

the device to a vehicle such that the second end of the guide means rested on the ground when in use, as shown by Clary, Egan et al, Lee et al, or Jones, as this would enable the device to load a single vehicle with passengers at a variety of locations instead of loading multiple vehicles at a single location. It further would have been obvious to utilize two armrests on the chair, as shown by Bartelt, as this would be a simple expediency to enhance passenger safety and comfort while being moved.

10. Applicant's arguments with respect to claims 1, 5-17, and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

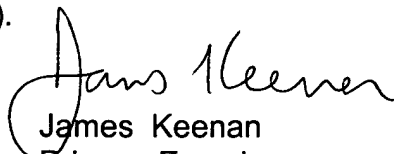
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
3/9/05